HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 5300 (S/S) of 2001

(Old no. 12624 of 2000)

Raghuvir Singh Bisht S/o Late Kunwar Singh,
R/o village Aurkandai Sawali,
Post-Bangar via suynse, Bedi Khal,
District Pauri Garhwal. - - - Petitioner.

Vs.

1. Joint Director of Education,
Garhwal Mandal, Pauri Garhwal,
2.District Inspector of Schools, Pauri,
District Pauri Garhwal,
3. District Magistrate, Pauri Garhwal,
4. Principal, Govt. Higher Secondary School,
Khalun Khet, Distt. Pauri Garhwal. - - - Respondents

Sri Rakesh Thapaliyal, learned counsel for the petitioner.
Learned Standing Counsel for the State.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Pooran Singh Bisht, Adv. and Sri Rakesh Thapaliyal, learned counsel for the petitioner and learned Standing Counsel for the respondents.

Counsel for the parties are agreed that the writ petition be decided at the admission stage itself.

By means of this writ petition, the petitioner has challenged the order dated 01.11.1999 passed by the District Inspector of Schools, Pauri Garhwal by which the services of the petitioner were terminated.

Brief facts of the case are that the petitioner, who is handicapped person, was appointed vide order dated 24/31.07.1998 on the post of Peon as a stop gap arrangement for 89 days and after completion of 89 days he was relieved from his post. Again the petitioner was appointed on 25.01.1999

on the post of Peon in the pay-scale of Rs. 2550-3200 on temporary basis. In pursuance to the appointment order dated 25.01.1999, the petitioner joined his duties at Govt. Higher Secondary School, Khalunkhet and since than he is regularly functioning without any break to the utmost satisfaction of his superior. Vide order dated 01.11.1999 passed by District Inspector of School, Pauri Garhwal, Pauri Garhwal the services of the petitioner were dispensed with without giving any notice or opportunity of hearing to him. Aggrieved with the order dated 01.11.1999, the petitioner filed the present writ petition and the Allahabad High Court on 16.03.2000 stayed operation of the impugned order dated 01.11.1999 till further orders of the Court.

The appointment of the petitioner has been cancelled by the District Inspector of Schools on the ground that the appointment was made by the then district Inspector of Schools and in the inquiry it was found that the appointment was not in accordance with law, no procedure was adopted in making appointment, the appointing authority had neither published advertisement nor the names were invited from the Employment Exchange before making said appointment, as such the appointment of the petitioner was cancelled.

Perusal of the impugned order reveals that petitioner was not given any opportunity of hearing. Once the petitioner has been given appointment and has worked for about eleven months, the petitioner was entitled to be heard before cancellation of his appointment. It is not disputed that the petitioner was neither heard nor any notice was given to him and appointment of the petitioner has been cancelled without following the principles of natural justice.

Admittedly, in this case, notice was not been given to the petitioner before holding that his appointment is irregular or

Unauthorized and ordering termination of his service. The Apex Court in the case of Basudeo Tewari vs. Sido Kanhu University and ors., reported in 1998 (6) Judgment Today, Page 464 has held that prior to terminating the services of an employee on the ground that the appointment of the employee is not in accordance with law, notice should have been issued to the person concerned and opportunity of hearing must be given to him.

In the present case, no opportunity of hearing has been given to the petitioner and without giving notice; his services have been terminated. Thus the order impugned dated 02.11.1999 terminating the services of the petitioner is liable to be quashed.

According, the writ petition is allowed. The impugned order dated 01.11.1999 passed by District Inspector of Schools, Pauri Garhwal, is hereby quashed. No order as to costs.

(M.M. Ghildiyal, J.)

August 30, 2005:

NCM: